

**OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION**

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April 23, 2010

The Honorable Ashley Swearengin, Mayor
City of Fresno
2600 Fresno Street
Fresno CA 93721

Dear Mayor Swearengin,

Thank you for your letter of April 13, 2010, regarding the Fulton Mall National Register nomination. I am pleased to learn that the Fresno Historic Preservation Commission (HPC) has found that the Fulton Mall is eligible for listing on the National Register. As you are aware, the findings of a Certified Local Government (CLG) in relation to eligibility of nominated properties have tremendous influence when nominations are being reviewed by the State Historical Resources Commission (SHRC).

As a CLG (one of only 57 CLGs in the entire state), the City of Fresno is expected to directly participate in the identification, evaluation, registration and preservation of historic resources within your jurisdiction and to integrate local preservation interests and concerns into local planning and decision-making processes. The findings of your HPC, in addition to the planned Fulton Corridor Specific Plan and other Specific and Community Plans, are examples of Fresno's commitment to the principles of being a CLG, and I applaud these efforts.

I would like to clarify several issues brought up in your letter and address your concerns about the process that has been followed for the nomination of the Fulton Mall for listing on the National Register. This process is dictated by the National Historic Preservation Act (NHPA) and related Federal regulations.

Regarding your assertion on the merits of the nomination, a National Register nomination examines only the resource being nominated, and not what may have been intended for the larger geographic area surrounding the resource. The National Register bulletin "Evaluating a Designed Historic Landscape for the National Register of Historic Places" states that "in most instances the original boundaries of the landscape design will define the limits of the geographic area to be evaluated." The Fulton Mall is the resource being nominated, and that is the resource under consideration, not the larger downtown area.

The same holds for analysis of the economics of the Fulton Mall—financial and economic considerations, although very important issues for planning purposes, have no bearing on establishing the significance of the mall as a historic resource. Although downtown Fresno may have been overflowing with "hustle and bustle" earlier in the 20th Century, at the time of the mall's construction it definitely was not. Instead, it is because the downtown area was not being used by consumers that the City of Fresno found itself on the cutting edge of urban planning in the 1960s when Victor Gruen developed his plan for the downtown and Garret Eckbo designed the Fulton Mall. The Fulton Mall is historically significant for that fact. From a historical perspective, there is

sufficient reason to celebrate the foresight of 1960s Fresno by making the Fulton Mall the center of a revitalized, vibrant downtown that showcases the best of mid-century modern design. Other California cities such as Pasadena, Santa Monica, and Palm Springs have all successfully revitalized their downtowns while integrating existing pedestrian malls into their plans.

As you know, the City of Fresno is writing a new specific plan that will be implemented through the adoption of an Environmental Impact Report (EIR) that will consider the Fulton Mall as an historic resource. This is the time, then, to move forward with a hearing by the California's State Historical Resources Commission (SHRC) in order to determine if that body agrees that the Fulton Mall nomination should be forwarded to the Keeper of the National Register for consideration. For discussion's sake, even if the nomination were not to be heard by the SHRC, nothing would change in terms of the considerations that must be given to the property during the City's own EIR process. In fact, the City of Fresno's own Historic Preservation Commission is on record as of April 9 stating that the Fulton Mall is "eligible" for the National Register. This local government conclusion means that it must be treated as a significant historical resource during the environmental review process regardless whether the Keeper makes a formal determination on this resource.

The National Register is a planning tool to be used by local governments in determining how to proceed with the preservation of their historic resources. Through the planning process, including the National Register, the treatment of Fulton Mall with respect to its overall historic context and within the current Fulton Corridor Specific Plan can be determined, as is specifically called for in the Fresno's HPC's Resolution No. 3 in their letter of April 9, 2010. The listing on the National Register will add to the body of knowledge being used during the planning phase. Through this process the Fulton Mall can be integrated within a vibrant new downtown design, as per the Fresno's HPC's own recommendations.

In the letter to me you note that you, as the City of Fresno's chief elected local official, and the HPC do not support the listing of the Fresno Mall on the National Register "at this time," and you ask that no further action be taken on this nomination unless appealed. Unfortunately, I am not able to do this under the authority provided by federal law. However, it is important to note that the Fulton Mall nomination was originally scheduled for hearing by the State Historical Resources Commission (SHRC) at its July 25, 2008, meeting. On July 9, 2008, former Fresno Mayor Alan Autry and the HPC asked that the nomination be pulled from the meeting "due to insufficient time for public comment and review." At that time I pulled the nomination from the SHRC's July 25, 2008 agenda. Thus, the City has already opposed this nomination, and the nomination was pulled in response to that opposition.

Pursuant to Sections 101(c)(2)(A) and (B) of the National Historic Preservation Act, the Fulton Mall National Register applicants immediately appealed my action. Subsequently, I scheduled the nomination for hearing at the SHRC's November 7, 2008, meeting. On September 12, 2008, OHP learned that, unlike what was previously thought by all interested parties, including the City of Fresno, the City does not actually own the Fulton Mall. Meanwhile, on September 22, 2008, Deputy State Historic Preservation Officer Steve Mikesell and Registration Unit Supervisor Jay Correia, at the

City's request, travelled to Fresno to address interested citizens and city officials about the implications of listing properties on the National Register.

By October 15, 2008, a title search, paid for by the City of Fresno, confirmed that the individual property owners along Fulton Mall do, in fact, own the mall. As a result I removed the nomination from the SHRC's agenda, for the second time, so that individual property owners could be properly noticed of the pending SHRC meeting per 36 CFR 60.6(c) and (d). At that point, the City of Fresno had been aware of the pending nomination for 15 months.

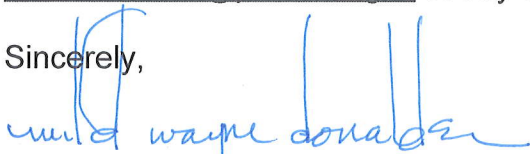
In late 2009, the Fulton Mall applicants notified OHP that they would be providing OHP with the names of the individual property owners fronting Fulton Mall so the nomination could be heard by the SHRC at its April 30, 2010, meeting. In answer to your concerns about the date of the property owners' list, I understand the applicants obtained the names and addresses from the Fresno County Assessors rolls during the first days of 2010, within the required 90-day timeframe as required by 36 CFR 60.6(c). To ensure that the list was accurate, the applicants re-checked the list against the Assessors rolls on April 5, 2010. The applicants found no change in owners of record. Thus, the list meets the requirements of 36 CFR 60.6(c) and (d).

In your letter, you question OHP's method of determining the actual number of property owners along Fulton Mall. OHP bases the number of owners on the property owner list supplied by the applicants. Each owner is allotted one vote regardless of the number of properties owned by that person, and corporations, LLCs, Partnerships and other entities receive one vote, regardless of how many persons own the company. OHP has determined that there are 46 properties on Fulton Mall and 56 owners for National Register purposes. Property owners have been properly notified of the nomination.

There have been no procedural irregularities during the Fulton Mall nomination process. The first notice to the City of Fresno informing the City that OHP was in receipt of the nomination was sent on July 3, 2007. The City has known about the pending nomination for almost three years. This has been one of OHP's most extensive and thoroughly noticed nominations. Throughout this process there have been ongoing and timely conversations about this nomination with Karana Hattersley-Drayton, Historic Preservation Project Manager for the City.

If you have any question please feel free to contact me at (916) 651-9404 or mwdonaldson@parks.ca.gov or Jay Correia at (916) 653-9054 or jcorr@parks.ca.gov.

Sincerely,



Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

cc: The Honorable Arnold Schwarzenegger, Governor, State of California
The Honorable Larry Westerlund, President, Fresno City Council
City of Fresno Historic Preservation Commission